



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,008	01/04/2002	Mark Linus Bauman	ROC920010193US2	6602

7590

06/23/2005

Gero G. McClellan
Moser, Patterson & Sheridan, L.L.P.
Suite 1500
3040 Post Oak Boulevard
Houston, TX 77056-6582

EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,008

Applicant(s)

BAUMAN ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-29 are pending in this examination; claims 1, 9, and 20 independent.

Specification

2. The specification objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The background information and summary of the invention are not the same as of the parent application and therefore are considered new matter. Specifically the deletion of ¶ 5, p. 3 and ¶ 8, pp. 3-4 of the parent application and the addition of ¶ 8-10, pp. 4-5, of the child application. Applicant is reminded that a divisional is "carved out" of the original (parent) specification. See 35 USC 121.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-19 are rejected under 35 U.S.C. 101 because the invention is not tangibly embodied.

Claims 9-19 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 9, ¶ 38, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g. memory) and intangible embodiments (e.g. signal-bearing media such as a telephone network). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Applicant is required to amend the claim such that the program is stored on a computer *recordable* medium.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 9-11, 13-18, 20-22, 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Nair (US 2003/0217184) (previously cited by Office as pertinent prior art in previous Office Action).

5. Referring to claim 1, Nair discloses a method of processing messages, comprising:

receiving at a sockets layer of a computer (the term "sockets layer" is taken to mean "physical layer" of the computer) data from a remote source via a network connection prior to allocating a buffer to contain the data (p. 3, ¶ 23); and subsequently allocating the buffer to contain the data (p. 3, ¶ 25).

6. Referring to claim 2, Nair discloses the messages are client-server messages (it is inherent that the messages are client server messages since any sender is considered a server and any recipient is considered a client).

7. Referring to claim 3, Nair discloses the data is received over a sockets streaming protocol (i.e. receiving packets continuously) (p. 3, ¶ 23).

8. Referring to claim 4, Nair discloses allocating the buffer comprises sizing the buffer according to a size of the data (i.e. identifies a buffer of appropriate size in which to store the frame of data) (p. 3, ¶ 25).

9. Referring to claim 5, Nair discloses the allocating is performed in response to a buffer request from the sockets layer (p. 3, ¶ 25).

10. Referring to claim 6, Nair discloses the network connection is a TCP/IP connection (i.e. Ethernet port) (p. 3, ¶ 23).

11. Referring to claim 7, Nair discloses processing a buffer request from a sockets layer after receiving the data (p. 3, ¶ 25); and
providing the buffer to the sockets layer (p. 3, ¶ 25).

Art Unit: 2143

12. Claims 9-11, 13-18, and 20-22, 24-29 are rejected for similar reasons as stated above. Furthermore Nair discloses the allocation is performed by the sockets layer (p. 3, ¶ 25), the buffer is allocated from storage owned by the sockets server application (p. 3, ¶ 25-27), and calling back to the sockets server application with an instruction to allocate the buffer (p. 3, ¶ 23-25).

Claim Rejections - 35 USC § 103

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nair.

14. Nair discloses the invention substantively as described in claim 7, however does not specifically state the buffer request specifies a size of the buffer equal to a size of the data, however it is well known that memory requests can include a size of memory which is needed to store the data. By this rationale, "Official Notice" is taken that both the concept and advantages of providing for specifying a size of the data in the buffer request is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the teaching of Nair to include specifying a size of the data in the buffer request since Nair discloses that the buffer manager identifies a buffer of appropriate size, however does not disclose how it knows this information. This would lead one of ordinary skill in the art to search for methods as to how to request

data buffers, eventually finding the well known method of requesting a specific sized data buffer.

Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nair in view of Glasser et al. (USPN 5,764,890) (hereinafter Glasser).

15. Referring to claim 12, Nair discloses the invention substantively as described in claim 9. Nair does not specifically state that the input operation is configured with a record definition specifying a data format of the data. In analogous art, Glasser discloses another method of processing messages wherein the input operation is configured with a record definition specifying a data format of the data (col. 12, line 60 to col. 13, line 9). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Glasser with Nair since Chen discloses the packet is received and a buffer of appropriate size is identified (p. 3, ¶ 25), however does not specify what size the Ethernet packet is. This would lead to one of ordinary skill in the art to determine negotiation handshaking methods thereby finding Glasser and it's efficient method of negotiating the maximum size of data packets (col. 12, lines 60-65).

16. Claim 23 is rejected for similar reasons as stated above.

17. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nair in view of Fry et al. (USPN 4,467,411) (hereinafter Fry).

18. Referring to claim 19, Nair discloses the invention substantively as described in claim 9. Nair furthermore discloses receiving the data via the network connection and copying the data into a previously allocated buffer (i.e. protocol software module receiving a frame of data) provided to the sockets layer with the input operation (p. 3, ¶ 23). Nair does not disclose if the previously allocated buffer is not large enough to contain the data, requesting a large buffer sufficient to contain the data. Fry discloses another message processing system which if the previously allocated buffer is not large enough to contain the data, requesting a large buffer sufficient to contain the data (col. 22, lines 42-47). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Fry with Nair in order to provide improved asynchronous signal transfers between a buffer and a plurality of signal handling devices by allowing scheduling of signal-handling device operations with respect to a managed buffer as supported by Fry (col. 3, lines 19-29).

Response to Arguments

19. The declaration filed on June 6, 2005 under 37 CFR 1.131 is sufficient to overcome the Chen reference, however after a search of the prior art, a new rejection has been presented.

Conclusion

Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. As it is extremely well known in the networking art as already shown by Nair and other prior arts of records disclosed, for a method of processing messages as well as other claimed features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention.

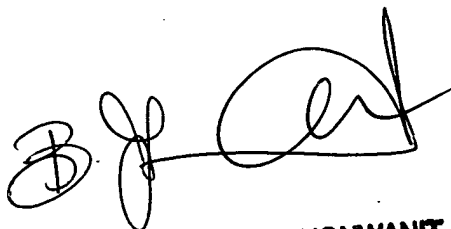
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
January 19, 2005



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER